

SENATE BILL 1755

By Marrero B

AN ACT to amend Tennessee Code Annotated, Title 47,
Chapter 18 and Title 68, relative to certain
consumer protections involving hospital services.

WHEREAS, Tennesseans through their state and federal taxes provide hundreds of millions of dollars of payments and essential provider payments to Tennessee's hospitals annually; and

WHEREAS, Tennessee's tax-exempt hospitals also enjoy additional hundreds of millions of dollars in tax exemptions, the cost of which is borne by taxpaying families and businesses; and

WHEREAS, taxpayer support for hospitals is premised on the hospitals' assurances that they afford a health care safety net to Tennesseans by providing charity care and other community services; and

WHEREAS, many Tennessee families do not have access to adequate health insurance that fully covers their hospital expenses; and

WHEREAS, hospital bills are an increasing source of financial hardship even for working families with health insurance and a leading cause of personal bankruptcy in Tennessee; and

WHEREAS, it is inconsistent with a hospital's responsibilities to the community and taxpayers that support it for the hospital to engage in deceptive or discriminatory pricing and collection practices; and

WHEREAS, a hospital engages in unfair practices if it fails to disclose, document, and provide charity care and community service as defined in Form 990, Schedule H, commensurate with the amount of direct subsidies and tax exemptions it enjoys; and

WHEREAS, it is inconsistent with a hospital's responsibilities to the community and taxpayers that support it for the hospital to engage in abusive collection practices against consumers who are attempting in good faith to pay their bills; and

WHEREAS, the American Hospital Association and the Catholic and Volunteer Hospital Associations have urged hospitals to ensure transparency in their pricing, collection and charity care policies and practices, and random surveys demonstrate that transparency is still a problem; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 47-18-104, is amended by adding to subsection (b) the following new subdivision:

() Failure by a hospital to accurately disclose to a consumer or the public the cost of services for which the hospital seeks payment.

SECTION 2. Tennessee Code Annotated, Section 47-18-104, is further amended by adding to subsection (b) the following new subdivision:

() Failure by a hospital to provide accurate and timely information regarding the availability of charity care in consumer friendly and non-English languages, based on medical condition or financial need, to the public and to consumers seeking or inquiring about care or from whom the hospital is demanding payment.

SECTION 3. Tennessee Code Annotated, Section 68-11-310, is amended by adding the following new subsection:

(e)

(1) The joint annual report shall include the following information concerning the hospital and any closely related entity of the hospital, as defined by regulations issued by the comptroller of the treasury:

(A) The value of the entity's exemption from any federal, state or local tax or licensure fee obligation;

(B) The value of any public subsidy received by the entity, including the amount of benefit realized by the hospital from its use of public bonds or other financing, other than public reimbursement for the care of an identifiable patient;

(C) The amount of any charity care, provided by the hospital. For purposes of this subdivision (e)(1)(C), the hospital may not include any amounts which have been the subject of collection efforts and which therefore are to deemed bad debt under applicable accounting principles; and

(D) The amount of any charity care of any uncompensated community service provided by the hospital.

(2) The comptroller of the treasury shall promulgate by regulations definitions that ensure this subsection (e) is implemented fairly, consistently and accurately.

SECTION 4. Tennessee Code Annotated, title 68, chapter 11, part 3, is further amended by adding the following new subsection:

68-11-3__.

Any hospital that maintains, either directly or through an affiliated organization, a worldwide web site on which it disseminates information to the public regarding its services shall be required to post on the site copies of the following materials, and the web site shall provide conspicuous notice to the public of the availability of those materials:

(1) The hospital's joint annual report for each of the five (5) most recent years for which reports are available;

(2) A hyperlink to hospital's information posted on the Hospital Compare website operated by the federal department of health and human services;

(3) A copy of the hospital's statement of its charity care policies, as required by § 68-11-268;

(4) A statement of the hospital's financial requirements for admission or treatment, including the amount of any required financial deposit or prepayment, and the circumstances under which such requirements shall be waived;

(5) A plain language description of the debt collection standards, policies and protections established by section 5 of this act;

(6) If the hospital or related entity is an exempt organization under § 501(c) of the Internal Revenue Code, copies of the IRS Form 990 returns and Schedule H submitted in each of the past five years for the hospital and any related entity. For purposes of this subdivision (6), the hospital need only post those portions of the returns that are required to be made publicly available; and

(7) A copy of the Form 990, Schedule H filed by the hospital or its parent organization.

SECTION 5. Tennessee Code Annotated, Title 68, Chapter 11, is amended by adding the following new section:

(a) Each hospital licensed under this title, and any entity acting as its agent, assignee or successor in interest, shall comply with the fair debt collection practices required by this section.

(b) Each hospital shall have a written policy defining standards and practices for the collection of debt incurred by patients for medical treatment or supplies furnished by the hospital. The policy shall:

(1) Prohibit the hospital from turning a patient's bill over to collections for one hundred eighty (180) days,

(2) Bar the hospital from charging interest on patient debt, require hospitals to screen patients eligibility for public programs, such as TennCare, Coverkids, or CHIP;

(3) Require third parties collecting hospital's debt to abide by hospital's debt collection policies; and

(4) Establish standards for determining the financial ability of a patient or his guarantors to pay for treatment or supplies received from the hospital, taking into account the person's income, family size, available assets, reasonably anticipated future medical expenses based on the patient's or guarantor's current medical condition and other financial obligations.

(c) A hospital, its agent, assignee or successor in interest shall not demand from a patient or the patient's guarantor payment for medical treatment or supplies in amounts, or on a schedule, that exceeds the person's ability to pay, as determined in accordance with the hospital's standards and policies established under subsection (b).

(d) When seeking payment for treatment or supplies that a hospital has provided to a patient, the hospital, its agent, assignee or successor in interest is prohibited from garnishing wages or from executing against, or filing a lien on real property that is the patient's or guarantor's primary residence, unless there has been a judicial finding that:

(1) The patient or guarantor has the financial means to immediately pay the full balance owed but nonetheless willfully refuses to pay; or

(2) The patient or guarantor has the financial means to pay the balance in installments, has been afforded a reasonable opportunity to do so, but has willfully failed to pay installments when they were due; and

(3) In the case of an execution or lien against real property, the property is not the primary residence of a spouse or of a minor or disabled child of the patient or guarantor.

(e) Judicial findings that involve a determination of ability to pay a hospital bill shall take into account person's income, family size, available assets, other financial obligations and reasonably anticipated future medical expenses based on current medical condition.

(f) A hospital, its agent, assignee or successor interest, must provide the patient or guarantor a copy of the hospital's policy required by subsection (b), as well as a plain language description of the rights and protections guaranteed by subsections (c) and (d), whenever:

(1) The entity sends a patient or guarantor its first communication seeking payment;

(2) The patient or guarantor requests a copy;

(3) The entity files suit against the patient or guarantor to collect a debt for hospital treatment or supplies; and

(4) At least five (5) days prior to seeking or accepting from the patient or guarantor a payment plan, contract, or accord and settlement of any debt for hospital treatment or supplies.

(g) The requirements of this section shall not apply to collection efforts directed at a tortfeasor or at a government or private third-party insurer.

SECTION 6. This act shall take effect July 1, 2009, the public welfare requiring it.